

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Document #

32

SANTIAGO

-v-

LACLIAR

U.S.C.A. # _____

U.S.D.C. # 08 - cv - 9906

JUDGE : Deborah A. Batts

DATE : March 27, 2012

INDEX TO THE RECORD ON APPEAL



PREPARED BY (NAME) : THOMAS R. PISARCZYK
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DISTRICT COURT DOCKET ENTRIES -----

DOCUMENT DESCRIPTION	DOC. #
<u>CLERK'S CERTIFICATE</u>	_____
<u>SEE ATTACHED LIST OF NUMBERED DOCUMENTS</u>	_____
ONLY CIRCLED DOCUMENTS ARE INCLUDED	_____
ALL OTHERS MISSING AT THIS TIME	_____
BALANCE OF FILE IS ELECTRONIC	_____

() ORIGINAL RECORD

The record in the above entitled case was indexed to the U.S.C.A.
for the Second Circuit on the 27 TH Day of March, 2012

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SANTIAGO

U.S.C.A. # _____

-v-

U.S.D.C. # 08 - cv - 9906

LACLIAR

JUDGE : Deborah A. Batts

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CLERK'S CERTIFICATE

I, Ruby J. Krajick, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 through , inclusive, constitutes the Original Record On Appeal in the above entitled proceedings except for the following missing documents:

Date Filed

Document Description

CLERK'S CERTIFICATE

SEE ATTACHED LIST OF NUMBERED DOCUMENTS

**ONLY CIRCLED DOCUMENTS ARE INCLUDED
ALL OTHERS MISSING AT THIS TIME
BALANCE OF FILE IS ELECTRONIC**

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York,
this 27th Day of Mar., In this year of our Lord, Two Thousand and Twelve, and the Independence
of the United States this 236th year.

Ruby J. Krajick, Clerk

By _____

Deputy Clerk

CLOSED, APPEAL, HABEAS, CASREF, PRO-SE

U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:08-cv-09906-DAB -GAY

Santiago v. Lacliar
Assigned to: Judge Deborah A. Batts
Referred to: Magistrate Judge George A. Yantthis
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 11/17/2008
Date Terminated: 02/22/2012
Jury Demand: None
Nature of Suit: 530 Habeas Corpus (General)
Jurisdiction: Federal Question

Date Filed	#	Docket Text
11/17/2008	<u>1</u>	PETITION FOR WRIT OF HABEAS CORPUS pursuant to 28 U.S.C. 2254. Document filed by John Santiago.(ll) (Entered: 11/19/2008)
11/17/2008		Magistrate Judge George A. Yantthis is so designated. (ll) (Entered: 11/20/2008)
11/24/2008	<u>2</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Habeas Corpus. Referred to Magistrate Judge George A. Yantthis. (Signed by Judge Stephen C. Robinson on November 21, 2008) (ll) (Entered: 11/24/2008)
12/05/2008	<u>3</u>	DRDER re: 1 Petition for Writ of Habeas Corpus filed by John Santiago.....Service of a copy of this Order shall be made by the Clerk of the Court by regular mail to petitioner....., to Respondent or his successor....., to Attorney General of the State Of New York....., and to Rockland County District Attorney..... (Signed by Magistrate Judge George A. Yantthis on 12/1/2008) Copies Mailed By Chambers.(jma) (Entered: 12/08/2008)
01/27/2009	<u>4</u>	AFFIRMATION of Carrie A. Ciganek in Opposition re: 1 Petition for Writ of Habeas Corpus. Document filed by D. Lacliar. (jma) (Entered: 01/27/2009)
02/24/2009	<u>5</u>	AFFIRMATION IN OPPOSITION TO MOTION FOR DISCOVERY of Carrie A. Ciganek in Opposition. Document filed by D. Lacliar. (gco) (Entered: 02/24/2009)
02/24/2009		Minute Entry for proceedings held before Magistrate Judge George A. Yantthis: Telephone Conference held on 2/24/2009. Plaintiff to reply 30days when he receives the opposition papers. (rj) (Entered: 02/25/2009)
06/19/2009	<u>6</u>	MEMORANDUM AND ORDER:Accordingly, petitioner's motion for discovery is denied. SO ORDERED (Signed by Magistrate Judge George A. Yantthis on 6/19/2009) The Clerk's Office Has Mailed Copies.(rj) (Entered: 06/19/2009)
06/19/2009	<u>7</u>	LETTER addressed to C.A. Ciganek from John Santiago dated 02/04/2009 re: request for documents. Document filed by John Santiago.(gco) (Entered: 06/22/2009)
06/19/2009	<u>8</u>	LETTER addressed to Geoge A. Yantthis from John Santiago dated 02/04/2009 re: extension of time. Document filed by John Santiago.(gco) (Entered: 06/22/2009)
06/19/2009	<u>9</u>	LETTER addressed to George A. Yantthis from John Santiago dated 03/16/2009 re: reply. Document filed by John Santiago.(gco) (Entered: 06/22/2009)
06/29/2009	<u>10</u>	ENDORSED LETTER addressed to Magistrate Judge George A. Yantthis from John Santiago dated 6/24/09 re: Request for a "time frame" to file a traverse. ENDORSEMENT: Any reply must be mailed by August 3, 2009. So Ordered. (Signed by Magistrate Judge George A. Yantthis on 6/29/09) (fk) (Entered: 06/29/2009)
08/06/2009	<u>11</u>	REPLY of JOHN SANTIAGO RESPONDENT'S AFFIRMATION IN OPPOSITION TO A WRIT OF HABEAS CORPUS.re: 4 Affirmation in Opposition. Document filed by John Santiago. (gco) (Entered: 08/07/2009)
05/10/2010	<u>12</u>	MOTION for Leave to File Supplemental Pleading. Document filed by John Santiago.(gs) (Entered: 05/11/2010)
05/10/2010	<u>13</u>	AFFIDAVIT of John Santiago in Support re: 12 MOTION for Leave to File Supplemental Pleading. Filed with exhibits. Document filed by John Santiago. (gs) (Entered: 05/11/2010)
05/10/2010	<u>14</u>	MEMORANDUM OF LAW in Support re: 12 MOTION for Leave to File Supplemental Pleading. Document filed by John Santiago. (gs) (Entered: 05/11/2010)
05/10/2010	<u>15</u>	MOTION for Immediate Release on Recognizance or Bail in the Interest of Justice Pending This Proceeding. Document filed by John Santiago.(gs) (Entered: 05/11/2010)
05/10/2010	<u>16</u>	AFFIDAVIT of John Santiago in Support re: 15 MOTION Immediate Release on Recognizance or Bail in the Interest of Justice Pending This Proceeding.. Document filed by John Santiago. (gs) (Entered: 05/11/2010)
05/10/2010	<u>17</u>	MEMORANDUM OF LAW in Support re: 15 MOTION Immediate Release on Recognizance or Bail in the Interest of Justice Pending This Proceeding.. Document filed by John Santiago. (gs) (Entered: 05/11/2010)
05/19/2010	<u>18</u>	PRO SE MEMORANDUM dated 5/25/2010 re: CHANGE OF ADDRESS for John Santiago. New Address: DIN# 07-A-1732, Auburn Correctional Facility, 135 State Street, Auburn, NY 13024. (gs) (Entered: 05/25/2010)
09/01/2010	<u>19</u>	NOTICE All appearances scheduled in cases on the docket of Judge Stephen C. Robinson are adjourned pending reassignment. Parties of record will be notified of the case reassignment via ECF email notification (or by written correspondence from the Clerk of Court). In all cases, counsel are reminded that a magistrate judge has been designated and are urged to consider consenting to trial before a White Plains magistrate judge under 28 U.S.C. 636. Inquiries may be directed to Robert Rogers, Deputy-in-Charge at 914-390-04001. (Signed by Judge Loretta A. Preska on 08/26/2010) (mj) (Entered: 09/01/2010)
11/09/2010	<u>20</u>	MEMORANDUM AND ORDER:...Accordingly, petitioner's motion to supplement his pleading is GRANTED. The Court respectfully requests that the Clerk of the Court terminate the pending motion(Docket #12).SO ORDERED (Signed by Magistrate Judge George A. Yantthis on 11/9/2010) The Clerks Office Has Mailed Copies. (rj) (Entered: 11/10/2010)
11/09/2010	<u>21</u>	REPORT AND RECOMMENDATIONS:...For the foregoing, I conclude that petitioner failed to meet his heavy burden to overcome the state court's denial of his ineffective assistance of counsel claims because (1)he did not submit clear and convincing evidence to refute the state court's findings;and (2) his claims do not meet the standard set forth in Strickland. Moreover, petitioner did not exhaust his equal protection and New York Penal Law claims in state court. Accordingly, I respectfully recommend that the instant petition for a writ of habeas corpus should be dismissed. Objections to R&R due by 11/29/2010 SO ORDERED (Signed by Magistrate Judge George A. Yantthis on 11/9/2010) The Clerks Office Has Mailed Copies. (rj) (Additional attachment(s) added on 11/10/2010: # 1 R&R) (fk). (Entered: 11/10/2010)
11/09/2010	<u>22</u>	MEMO ENDORSEMENT: MOTION DENIED. on re: 15 MOTION Immediate Release on Recognizance or Bail in the Interest of Justice Pending This Proceeding. filed by John Santiago SO ORDERED (Signed by Magistrate Judge George A. Yantthis on 11/9/2010) The Clerks Office Has Mailed Copies. (rj) (Entered: 11/10/2010)
11/10/2010	<u>23</u>	NOTICE OF CASE REASSIGNMENT to Judge Deborah A. Batts. Judge Stephen C. Robinson is no longer assigned to the case. (fk) (Entered: 11/12/2010)
11/12/2010		Mailed notice re: 23 Notice of Case Assignment/Reassignment to the attorney(s) of record. (fk) (Entered: 11/12/2010)
11/29/2010	<u>26</u>	OBJECTION to 21 Report and Recommendations Document filed by John Santiago. (mro) (Entered: 12/09/2010)
09/19/2011	<u>27</u>	PRO SE MEMORANDUM dated 9/15/11 re: CHANGE OF ADDRESS for John Santiago. New Address: Din# 07-A-1732, Wyoming Correctional Facility, 3203 Dunbar Rd., P.O. Box 501, Attica, NY, 14011. (kj) (Entered: 09/19/2011)
11/30/2011		Docket Sheet Mailed to John Santiago mailed on 11/30/11, regarding the November 20, 2011 letter seeking the status of the 11/29/10 Objection to the R&R and any final decision. (kj) (Entered: 11/30/2011)
02/16/2012	<u>29</u>	ORDER: Having conducted the appropriate levels of review of the Report and Recommendation of United States Magistrate Judge George A. Yantthis dated November 9, 2010, this Court APPROVES, ADOPTS, and RATIFIES the Report in its entirety. Accordingly, Petitioner's Petition for a Writ of Habeas Corpus is

	DENIED in its entirety. The Court certifies, pursuant to 28 U.S.C. § 1915(a) {3}, that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See <i>Coppedge v. United States</i> , 369 U.S. 438, 444-45 (1962). As the Petition makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253. The Clerk of Court is directed to close the docket in this case. (Signed by Judge Deborah A. Batts on 2/16/2012) (jfe) (Entered: 02/16/2012)
02/16/2012	Transmission to Judgments and Orders Clerk. Transmitted re: <u>29</u> Order to the Judgments and Orders Clerk. (jfe) (Entered: 02/16/2012)
02/22/2012	<u>30</u> CLERK'S JUDGMENT That for the reasons stated in the Court's Order dated February 16, 2012, the report is adopted in its entirety; the petition for a writ of habeas corpus is denied in its entirety; and this action is dismissed in its entirety with prejudice; the Court finds that because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue; the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from the Order dated February 16, 2012 would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal; accordingly, the case is closed. (Signed by Clerk of Court Ruby Krajick on 2/22/12) (Attachments: # <u>1</u> notice of right to appeal)(ml) (Entered: 02/22/2012)
02/22/2012	Transmission to Docket Assistant Clerk. Transmitted re: <u>30</u> Clerk's Judgment., to the Docket Assistant Clerk for case processing. (ml) (Entered: 02/22/2012)
02/22/2012	Mailed notice of Right to Appeal re: <u>30</u> Clerk's Judgment, to Pro Se Litigant(s): John Santiago and to Attorney(s) of Record: Carrie Anne Ciganek. (eef) (Entered: 02/22/2012)
03/20/2012	<u>31</u> NOTICE OF APPEAL from <u>30</u> Clerk's Judgment, <u>29</u> Order. Document filed by John Santiago. Form D-P is due within 14 days to the Court of Appeals, Second Circuit. (tp) (Entered: 03/26/2012)
03/20/2012	0 Appeal Remark as to <u>31</u> Notice of Appeal filed by John Santiago. \$455.00 APPEAL FEE DUE. IFP REVOKED 2/16/12. COA DENIED 2/16/12. (tp) Modified on 3/26/2012 (tp). (Entered: 03/26/2012)
03/26/2012	Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>31</u> Notice of Appeal. (tp) (Entered: 03/26/2012)